

Town of Northfield Procedure for Exercising First Refusal Option on Chapter 61, 61A, or 61B Land

This document is intended to serve as a guide for municipal staff, boards, and residents of the town of Northfield, outlining general steps to be followed when landowners in town intend to convert or sell their Chapter 61, 61A, or 61B land. In order to verify exact rights and responsibilities under this program, consult Chapters 61, 61A, and 61B of the Massachusetts General Laws or a land use attorney, as well as town counsel.

NOTIFICATION REQUIREMENTS:

The landowner provides a Notice of Intent, by certified mail, to the Selectboard, Board of Assessors, Planning Board, Conservation Commission, and State Forester (c/o Commissioner of DCR) to sell or convert classified land; this notification should include:

- Cover letter notifying Selectboard of intent to sell or convert the land, specifying proposed use of the land;
- Contact information for landowner;
- If Intent to sell, copy of the purchase and sales agreement specifying purchase price and all terms and conditions of proposed sale, and any additional agreements;
- Survey of land (or map if survey is unavailable);
- Location and acreage of land, shown on a map drawn at the same scale as the assessors' map.

The day after this notification is mailed to all appropriate parties, as shown by the certified mail receipt, begins the 120-day period for the town to consider whether to exercise its first refusal option or assign this right to a conservation organization. If the notification from the landowner is deficient, as determined by town counsel, the town has 30 days in which to give the landowner notice thereof, in which case the landowner must then resubmit his/her notification, re-starting the 120-day period.

TOWN RESPONSE:

1. Selectboard – Sends written acknowledgement of receipt of notice to landowner (or attorney) with date received and asks the assessors office for copies of the current tax maps and assessments for the property as well as contact information for abutting landowners.
2. Town Administrator – (a) Notifies all town boards and abutting landowners within 10 days that notification has been received, with the date that began the 120-day first refusal option process. (b) Forwards information received from the landowner and provided by the assessors office to the following committees.
 - Conservation Commission
 - Planning Board
 - Board of Assessors
 - Open Space Committee
 - Agricultural Commission
 - Historical Commission
3. Selectboard – Appoints a “Coordinating Committee” that will coordinate the gathering of information and recommendations from various committees, organizations, and individuals regarding this notification. The Open Space Committee will be the “Coordinating Committee” for the process.
4. Coordinating Committee – (a) Schedules and organizes a meeting to discuss this first refusal option opportunity within 35 days of the distribution of materials specified in 2(b) above. (b) Notify the selectboard, the six above-listed committees, abutting landowners, and any other interested parties, such as land trusts, conservation organizations, and the Franklin Regional Council of Governments (FRCOG) of this meeting, noting that responses and recommendations are due by this date; it will be assumed that any entity not submitting a response by this time does not wish to recommend that the town exercise its right of first refusal.

5. Coordinating Committee – Within 10 days of the meeting described in the preceding paragraph, prepares and distributes to all parties a document that summarizes the results of the meeting and the recommendations of the various committees, and indicates whether or not there seems to be interest in exercising the town’s right of first refusal or assigning it to an appropriate organization; any and all committee, organization, and individual recommendations should be attached to this document.
6. Selectboard – Following receipt of the Coordinating Committee document, decides whether or not to schedule a public hearing regarding the town exercising it’s right of first refusal. (Note – the town cannot exercise it’s right of first refusal without a public hearing.) If the selectboard decides to have a public hearing, it is advisable that it take place by the halfway point in the 120-day period - or as soon thereafter as possible – in order that issues such as associated contracts and identification of funding can be resolved before the 120 days expire.
7. Selectboard - Within the 120-day timeframe, makes the decision to do one of the following:
 - (a) Exercise the first refusal option;
 - (b) Assign the first refusal option to a qualified nonprofit conservation organization or agency;
 - (c) Decline to exercise the first refusal option.

Requirements for each option:

If (a) – The town must hold a public hearing, giving public notice in accordance with the open meeting law, before the option may be exercised. If the Selectboard then decides to exercise the option, it must record a Notice of Exercise, containing the name of the owner of record and a description of the premises adequate for identification, and send notice to the landowner by certified mail, accompanied by a proposed purchase and sale agreement to be consummated in 90 days or fewer.

If (b) – Following a public hearing, the Selectboard must execute and record a Notice of Assignment, stating the name and address of the organization or agency which is expected to exercise the option and the terms and conditions of the assignment. If the land trust or agency elects to exercise the option, it must send notice to the landowner by certified mail, and record its Notice of Exercise, containing the name of the owner of record and a description of the premises adequate for identification, plus propose a purchase and sale agreement to be consummated within 90 days. The parties then work out the agreement and consummate it. The land trust or agency then records a conservation restriction.

If (c) – The Selectboard must sign and deliver a Notice of Non-Exercise, containing the name of the owner of record and a description of the premises adequate for identification, to the landowner, sending it by certified mail to the landowner’s address on the Notice of Intent.

Note: If neither the Notice of Exercise nor the Notice of Assignment is recorded within the 120-day period, the Town’s option expires and the landowner is free to sell, but only upon the original terms spelled out in the purchase and sale agreement that accompanied his/her original Notice of Intent.